

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARREN HARRIS,

Plaintiff,

No. CIV 05-0003 ALA P

vs.

DR. KIM, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis pursuant to 28 U.S.C. § 1915. On November 1, 2007, this court ordered Plaintiff to show cause as to why this action should not be dismissed for Plaintiff's failure to file an amended complaint as ordered by this court on September 21, 2007. On November 5, 2007, Plaintiff filed a motion for the appointment of counsel, a motion for an extension of time to file an amended complaint and an amended complaint.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court does not find the required exceptional circumstances. Plaintiff's

1 motion for the appointment of counsel will therefore be denied.

2 Therefore, good cause appearing, IT IS HEREBY ORDERED that:

- 3 1. This Court's November 1, 2007, order to show cause is discharged;
- 4 2. Plaintiff's November 5, 2007, motion for an extension of time is granted;
- 5 3. Plaintiff's November 5, 2007, amended complaint is deemed timely; and
- 6 4. Plaintiff's November 5, 2007, motion for the appointment of counsel is denied.

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8 DATED: November 8, 2007

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10 /s/ Arthur L. Alarcón
11 UNITED STATES CIRCUIT JUDGE
12 Sitting by Designation
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